

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Case No. 06-20272
Honorable Patrick J. Duggan

DEVIN NEAL EXNICIOUS,

Defendant.

/

**OPINION AND ORDER DENYING AS MOOT DEFENDANT'S MOTION
PURSUANT TO 41 C.F.R. § 128-50.101**

This matter is presently before the Court on Defendant Devin Neal Exnicious' Motion Pursuant to 41 C.F.R. § 128-50.101, filed August 26, 2013. In his motion, Exnicious seeks an inventory of seized property. At this Court's request, the Government filed a response to the motion on September 26, 2013.

Background

On May 12, 2006, Exnicious was arrested for possession with intent to distribute 373 pounds of marijuana seized from the compartment of a tractor-trailer that he was operating. Exnicious subsequently was charged in an Indictment with conspiracy to possess with intent to distribute marijuana in violation of 21 U.S.C. § 846 (Count One), and possession with intent to distribute marijuana in violation of 21 U.S.C. § 841(a) (Count Two). On October 16, 2007, Exnicious pleaded

guilty to Count One of the Indictment pursuant to a plea agreement with the Government. This Court sentenced Exnicious to a prison term of 120 months on February 1, 2008.

Discussion and Analysis

In his pending motion, Exnicious requests an inventory of the tractor and trailer from which the marijuana was seized: (1) One White 379 Peterbuilt Tractor (Year 2000), California License Plate #UP58432; and (2) One White Stoughton Trailer, California License Plate #4GN2344, displaying the number "55149" written in red letters on the rear cargo door and on the exterior front wall of the Trailer. Exnicious relies on 41 C.F.R. § 128-50.101 for his request.

Section 128-50.101 provides for certain inventory records to be kept with respect to personal property seized by the Government. Specifically, the regulation requires record of:

- (a) The date the property was seized is recorded;
- (b) All of the property associated with a case is recorded together under the case name and number;
- (c) The location of storage of the property is recorded;
- (d) A well documented chain of custody is kept; and
- (e) All information in the inventory records is accurate and current.

41 C.F.R. § 128-50.101. The documents attached to the Government's response brief provides this information.

Accordingly,

IT IS ORDERED, that Defendant's Motion Pursuant to 41 C.F.R. § 128-50.101 is **DENIED AS MOOT**.

Dated: October 15, 2013

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:

Devin N. Exnicious
#28104-044
FCI Englewood
9595 W. Quincy Avenue
Littleton, CO 80123

AUSA Elizabeth A. Stafford